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US State Department Human Rights Country Reports - 1994

INDONESIA

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Despite a surface adherence to democratic forms, the Indonesian political system remains strongly authoritarian. President Soeharto, now in his sixth 5-year term, dominates the Government. The President, a small group of advisors, and the military dominate the political, economic, and social life of this heavil y populated and disparate nation. The Government requires allegiance to a state ideology, known as "Pancasila", which includes belief in a supreme God, a just and civilized humanity, national unity, democracy, and social justice.

The military justifies its role in political and social issues, including an automatic unelected presence in national and local parliaments, through a "dual function" concept giving it special civic rights and responsibilities in addition to its defense and security roles. The armed forces, including 165,000 police, total about 445,000 and regard their primary role as maintaining internal security. They act quickly to suppress what they regard as threats to security, whether separatist movements, criminal acts, or alleged subversive activity. The validity of this "security approach," which often leads to human rights abuses, was again the subject of open debate in 1993. Security forces continued operations against separatist groups in Aceh, Irian Jaya, and East Timor. The police also continued to use excessive force in apprehending suspected criminals.

In contrast to its restrictive political system, Indonesia has an increasingly deregulated and dynamic economy which has produced significant material gains for a wide segment of Indonesian society. Indonesia nevertheless remains a poor country. Agriculture and extractive industries, especially oil and gas, remained important sectors of the economy. But a broad and expanding manufacturing sector accounted for a growing percentage of exports. Gross domestic product growth for 1993 was expected to be 6.5 percent, and inflation appeared under control. Corruption and influence peddling are endemic and continued to distort the economy.

Although progress was made in a number of human rights areas, serious abuses continued. In East Timor, where largely cosmetic changes in the force structure resulted in minimal reductions in troop presence, no significant progress was noted in the search for the about 60 persons still missing from the November 12, 1991, shooting incident in Dili. Extrajudicial arrests and detention, torture of those in custody, and excessively violent techniques for dealing with suspected criminals or perceived troublemakers continued in many areasof Indonesia. Legal safeguards against arbitrary arrest and detention are frequently ignored. The armed forces continued to be responsible for the most serious human rights abuses. The current military leadership in several specific instances showed a greater willingness to admit misconduct publicly and take action against offenders, although such steps continued to be relatively rare. The judiciary remained largely shackled by the executive branch and military, although progress was made in the area of judicial review. Widespread corruption in the legal system continued to be a serious problem.

The year 1993 saw a bolder and more assertive press, which suffered less official censorship and which was less willing to submit itself to self-censorship; a liberalized public dialog on human rights; the selection late in the year of members for a National Human Rights Commission, although its autonomy remains in question; and a sharp reduction in the number of Indonesians forbidden from traveling abroad. Fewer Indonesians were tried under the harsh and arbitrary antisubversion law, and several long-term convicted subversives were released. The Government maintained its open and humane policies toward Indochinese refugees.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

Political or extrajudicial killings occur most often in areas where separatist movements are active and when law enforcement is involved. Punishments for security force members who commit extrajudicial killings seldom correspond to the crimes committed.
All police and military personnel tried for killing or mistreating prisoners, or for any other criminal activity, are tried by military courts; the sentences, when imposed, are rarely heavy.

Security forces often employ harsh measures against separatist movements (especially in East Timor, Irian Jaya and Aceh), including extrajudicial killings of civilians. In 1993, however, while occasional clashes were reported between separatist groups and security forces in these areas, confirmed killings of civilians by government or vigilante forces continued to be far lower than in the recent past. The International Committee of the Red Cross (ICRC) judged the situation in Irian Jaya improved to the point where it no longer needed an office in Jayapura and could cover that province adequately from Jakarta. The ICRC is, however, seeking to open an office in Aceh because it judges the situation there serious enough to warrant a constant presence in the province. While accepting responsibility for the military shooting of civilians in Dili, East Timor, on November 12, 1991, the Government made little progress in accounting for those missing in the incident (see Section 1.b.). The Government has not officially acknowledged or accounted for thousands of civilians killed during military operations against separatist guerrillas in Aceh during 1989-91.

The armed forces made several public pledges in 1993 to reduce by stages the number of troops in East Timor, a move expected to reduce tensions and the incidence of human rights abuses. The first pullout of two battalions was to take place in October, although by early December the status of this pullout was not clear. In April the Special Operational Military Command for East Timor was disbanded and replaced with a command structure similar to that in the other 26 provinces. The composition of troops was reportedly changed to emphasize civic action over combat missions, although civic action troops also carry weapons and conduct patrols. Despite these changes, most sources in East Timor continued to report an oppressive military presence throughout the province. In law enforcement, excessive force is sometimes employed in apprehending suspects or coping with alleged criminals. In Jakarta, for example, police continued to employ deadly force against suspects who reportedly were fleeing or resisting arrest, killing 13 in January 1993 alone. Human rights monitors estimated between 60 and 70 people had been shot by police in the capital by the end of the year, although exact statistics were not available. In the province of North Sumatra, a policy of shooting criminal subjects in the legs, sometimes repeatedly, continued. Press accounts indicate that through early December

police in North Sumatra had shot 74 suspects, 8 fatally, who were allegedly resisting arrest. Human rights groups protested that the methods used are unjustifiably harsh and violate due process. Police have generally asserted that those killed were dangerous criminals, and have denied a repetition of the officially sponsored "mysterious killings" of the mid-1980's directed against criminal elements. In a few instances, official action was initiated against police for using excessive force. Press accounts indicate that five policemen were detained in June in North Sumatra in connection with the death of Syamsul Bahri, who was shot earlier that month while allegedly resisting arrest.

A military court in Medan began hearing testimony in August against a policeman who went to a house where a dispute was under way and shot a suspect in the head when he tried to surrender. The policeman was charged with murder. Authorities declined to reveal the disposition of this case.

Four members of a religious sect were shot dead and a dozen others wounded by police in late July in West Java. The police began shooting after members of the sect attacked two policemen with farm implements, killing one and wounding the other. The policemen were attacked after they approached the sect's compound seeking to arrest two members for a previous assault. The sect and its leader, who was killed in the attack, had rejected contacts with the outside world. Various religious leaders condemned the attack as excessively violent and urged security forces to exercise greater restraint. Several of the sect's survivors were tried and convicted on assault charges and received sentences of between 3 and 12 months.

Four persons, including a 55-year-old woman and a teenage boy, died in September when security forces opened fire on a demonstration in Madura, East Java. The demonstrators were villagers protesting the construction of a dam, who had raised their concerns over the project without success at several meetings with local officials a few days before. Security forces initially reported the crowd, which numbered some 500, had acted in a threatening manner and continued to advance on them, despite several warning shots fired by the troops. Human rights groups decried the use of what they called excessive force and conducted their own investigation, which found no evidence of warning shots and placed the demonstrators at a considerably greater distance from security forces. Armed Forces Commander Feisal Tanjung in mid-October publicly acknowledged a breakdown in military discipline had occurred. He relieved the commanders of the police and army units involved, and remanded the two dozen military and police personnel involved to Armed Forces headquarters for possible further disciplinary action. No criminal proceedings had been initiated against them by year's end.

A 24-year-old labor activist, Marsinah, was murdered in May in East Java shortly after leading a labor action at the factory where she worked. Nine civilian employees of the company were arrested in October in connection with her murder, and trials were begun in November. At least one Army officer was also arrested and a second relieved of his post, although the status of their cases was unclear in early December. Testimony and press stories alleged collusion existed between company officials and security forces in Marsinah's abduction and murder. Security forces often intrude in labor matters and intimidate labor activists (see Section 6).

b. Disappearance

In general, politically motivated abductions are not common in Indonesia. Security forces in areas with active guerrilla insurgencies often hold suspects for long periods without formal charges, but these cases usually end with official acknowledgement of detention (see Section 1.d.). The Government vigorously prosecuted a case against an

official of the Democratic Party of Indonesia, (PDI), the smallest of the three allowed political groupings, who was accused of kidnaping members of a rival party faction in 1991. The trial, however, was widely regarded as an effort to undermine the PDI leadership, and the accused party official was subsequently acquitted. A labor activist was abducted and killed in East Java after leading a strike at the watch factory where she worked (see Section 1.a.).

Government efforts to account for the missing and dead from the November 12, 1991, military shooting of civilians in Dili, East Timor, remained inadequate. In April military officials in East Timor turned over to a representative of Asia Watch a list of 66 names of people they believed were still missing from the incident. Since then, various officials have claimed that a handful of these people have been located alive, having hidden from authorities since the incident. In a related case, authorities claimed that two of four Timorese who sought asylum in the Swedish Embassy in Jakarta in June were among the missing from the Dili incident, although the names of the two Timorese were not on the military's list. Government spokesmen broadly implied that their failure to locate those missing was primarily due to the success of those persons in evading detection. Many knowledgeable observers, however, continued to believe that most of the missing are dead and that the military knows where their bodies are.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Torture is against the law in Indonesia. In practice, while the situation has improved in recent years, torture and other forms of mistreatment remain widespread, and legal protections are both inadequate and widely ignored. The Criminal Procedures Code (KUHAP) provides that statements from witnesses or suspects must be elicited without pressure of any kind, and establishes pretrial procedures to give suspects or their families the right to challenge the legality of an arrest or detention. The Indonesian Criminal Code (KUHP) makes it a crime punishable by up to 4 years in prison for any official to use violence or force to elicit a confession.

Nonetheless, torture continues, with the highest incidence occurring in cases which are judged to affect national security such as those involving areas of separatist activity. According to the Lawyers Committee for Human Rights, methods of torture include electrocution; slashing with razor blades and knives (including inside of the mouth); beating on the head, shins, and torso with fists, batons, iron bars, bottles, rocks, and lengths of electric cable; sexual molestation and rape; kicking with heavy military boots; burning with lighted cigarettes; threats and deliberate wounding with firearms; immersion for long periods in fetid water; isolation and sleep deprivation. Use of torture is particularly frequent in Aceh. Reliable reports suggest that a majority of Acehnese still held in 1993 in connection with the Aceh Merdeka (Free Aceh) movement had undergone some form of torture at some time during their incarceration. An Acehnese parliamentarian convicted of subversion in July, Haji Usman Mohammed Ali, claimed during his trial he was beaten during his interrogation and forced to sign statements incriminating himself. Several of the witnesses called to testify in the trial of East Timor separatist leader Jose "Xanana" Gusmao were also reliably reported to have been mistreated while in custody.

Police often resort to physical abuses even in minor incidents, and prison conditions are harsh, with violence among prisoners and mistreatment of inmates by guards reportedly common. However, the incidence of mistreatment by prison officials drops sharply once a prisoner has been transferred from police or military custody into the civilian prison system, and prison conditions generally have improved in recent years. Officials have publicly condemned police brutality and harsh prison conditions and occasionally instigate disciplinary action, including transfer, dismissal, and trials leading to prison, but such actions are an exception to the rule of general impunity. Political prisoners are usually

mixed with the general prison population, although in the Cipinang prison in Jakarta high-profile political prisoners are held together in a segregated area.

In 1993 the ICRC and several foreign parliamentary delegations were allowed to visit prisoners in Cipinang in Jakarta and described the facility as Spartan but adequate. The ICRC was also granted access to other prisons in Java, Sumatra, East Timor, Aceh, and other provinces, although it suspended prison visits in Aceh and East Timor at various times when it felt authorities were violating agreed-upon terms for the visits. These disagreements were all eventually settled, and the visits resumed.

d. Arbitrary Arrest, Detention, or Exile

The Criminal Procedures Code contains protections against arbitrary arrest and detention which are routinely violated in practice. The code specifies the right of prisoners to notify their families. Warrants must be produced during an arrest except under specified conditions, such as when a suspect is caught in the act of committing a crime. Warrants are issued by police investigators to assist in their investigations or if sufficient evidence exists that a crime has been committed. Despite these requirements, arrests are often made without warrants, such as in the Marsinah murder case in which several suspects were held for 18 days without warrants or notification of their families.

Defendants are presumed innocent and may be granted bail. They or their families may also challenge the legality of their arrest and detention in a pretrial hearing and are entitled to sue for compensation if wrongfully detained. The code also contains specific limits on periods of pretrial detention and specifies when the courts must get involved to approve extensions, usually after 60 days.

In areas where there are active guerrilla movements such as East Timor and Aceh, people are routinely detained without warrants, charges, or court proceedings. Bail is rarely granted, especially in political cases. The authorities frequently interfere with access to defense counsel. Extensions of periods of detention are routinely approved. Pretrial proceedings are rarely initiated. In addition, suspects charged under the 1963 Antisubversion Law are subject to special procedures outside the Criminal Procedures Code which allow, for example, the Attorney General on his own authority to hold a suspect up to a year before trial. This 1-year period is renewable without limit. Special laws on corruption, economic crimes, and narcotics are similarly exempt from the code's protections. The Agency for Coordination of Assistance for the Consolidation of National Security (BAKORSTANAS) operates outside the code and has wide discretion to detain and interrogate persons thought to threaten national security.

National estimates on the number of arbitrary arrests or detentions without trial are not available. In Aceh 73 people accused of being members of Aceh Merdeka were released without charges or trials in 1993 after periods of detention that sometimes exceeded 2 years. Added to those released in 1991 and 1992, some 906 persons had been held, often incommunicado and without knowing the charges against them, in connection with the 1989-91 Aceh insurgency. Many of those released were required to report back to the authorities at regular intervals. Some 100 Acehnese were believed to be awaiting trial at year's end.

In East Timor military authorities continued the practice of detaining people without charges for short periods and then requiring them to report daily or weekly to police after their release. There were credible reports of scores of people being detained without charges at various times during the year for enforced "civics training" in areas outside the capital of Dili. This particularly occurred during the visits of high profile guests, such as the April visit to East Timor of the U.N. Secretary General's Special Envoy, Amos Wako,

and the August-September visits of two U.S. Congressional staff delegations. Two former leaders of the armed East Timor resistance, Jose "Mauhudu" da Costa and Antonio Gomes "Mauhunu" da Costa, remained under tight military control in 1993 although charges had not been formally filed against either man. Mauhudu was arrested in January 1992 and Mauhunu in April 1993. They were in East Timor in August-September 1993 making speeches on the merits of integration with Indonesia. Despite public announcements that they had been granted an "amnesty" and were therefore "free," they were required to spend each night at the home of military officers.

e. Denial of Fair Public Trial

The judiciary is subordinate to the executive and the military, and procedural protections, including those against coerced confessions, are inadequate to ensure a fair trial in many cases. A quadripartite judiciary of general, religious, military, and administrative courts exists below the Supreme Court. The right of appeal from district court to high court to Supreme Court exists in all four systems of justice. The Supreme Court, with a current backlog variously estimated at 13,000 to 17,000 cases, does not consider factual aspects of a case, only the lower courts' application of law. Initial judgments are rarely reversed in the appeals process, although sentences are sometimes increased or reduced. A three-judge panel conducts trials at the district court level, poses questions, hears evidence, decides guilt or innocence, and assesses punishment.

Defendants have the right to confront witnesses. An exception is allowed in cases where distance or expense is deemed excessive for transporting witnesses to court, in which case sworn affidavits may be introduced. In cases tried under the 1963 Antisubversion Law, trials in absentia are permitted, and an Acehnese accused of separatist activities, Dharma Bakti, was condemned to death in absentia April 6.

The use in trials of forced confessions and limitations on the presentation of defense evidence is common. The defense in the subversion trial of Haji Usman Mohammed Ali, for example, claimed that witnesses it tried to call were too afraid of retribution by the authorities to testify on his behalf. The defense attorneys in the case of two students tried in Semarang, Central Java, noted that while the prosecution called 15 witnesses, a defense motion to call 8 was rejected by the judges, who said they had the right to be selective in who could testify. One defense witness was eventually allowed. Defendants do not have the right to remain silent and in several cases in 1993 were compelled to testify in their own trials.

The Criminal Procedures Code gives defendants the right to an attorney from the moment of their arrest through the investigation and trial. In capital cases and those involving a prison sentence of 15 years or more, a lawyer must be appointed. In cases involving potential sentences of 5 years or more, a lawyer must be appointed if the accused desires an attorney but is indigent. Destitute defendants can obtain private legal help, such as that provided by the Legal Aid Institute (LBH). In practice, however, defendants are often persuaded not to hire an attorney, or access to an attorney of their choice is impeded. East Timor separatist leader Jose "Xanana" Gusmao, for example, stated in his final defense statement that his efforts to engage an attorney from LBH were thwarted by authorities, who "forced" him to hire an attorney known to the police. In the trial of Haji Usman Mohammed Ali, the defendant did not meet his Legal Aid Institute attorney until the day his trial began.

The judiciary is not independent. The Supreme Court does not have the right of judicial review over laws passed by Parliament. Although the Supreme Court has since 1985 had the power to review ministerial decrees and regulations, the court has not yet

used this power. Chief Justice Purwoto Gandasubrata in early 1993 laid out procedures under which limited judicial review cases could be brought to the court, a move that was hailed as a significant step toward greater judicial independence. While judges receive guidance from the Supreme Court on legal matters, they are civil servants employed by the executive branch which controls their assignments, pay, and promotion. They are subject to considerable pressure from military and other governmental authorities. Such control often determines the outcome of a case. The Chief Judge of the State Administrative Court in Medan, for example, issued a restraining order in January 1993 against the military commander in Medan after the commander intervened in the leadership struggle of the Batak Protestant Church (HKBP) (see Section 2.c.). The commander publicly criticized the judge, whose home was vandalized shortly after he handed down his decision. A few days later the judge was suddenly told he had been assigned to attend a 2-week legal workshop far from Medan. While he was gone, his deputy took over the case and vacated the restraining order.

Corruption permeates the Indonesian legal system. In civil and criminal cases, the payment of bribes can influence prosecution, conviction, and sentencing. Public unrest concerning the implementation of a new traffic law with stiffer fines was partly driven by fears that police, many of whom are poorly paid,would be even more aggressive in demanding bribes frommotorists. Various public officials have campaigned against corruption by police and judicial officials, but public respect for the legal system remained low.

The 1963 Antisubversion Law, which carries a maximum penalty of death, remained a focus of legal concerns in 1993, although the number of cases prosecuted under the law dropped sharply. The law makes it a crime to engage in acts that could distort, undermine, or deviate from the state ideology or broad outlines of state policy, or which could disseminate feelings of hostility or arouse hostility, disturbances, or anxiety among the population. It has been attacked as excessively vague and harsh, and inappropriate to Indonesia's current level of stability and development. While the law continued to be defended by public officials such as the Attorney General, the Government showed greater discretion in its application. For example, Fretilin leader Jose "Xanana" Gusmao was charged under felony statutes of the criminal code rather than under the Antisubversion Law. Sentences in several of at least eight subversion trials held in 1993--six of them in connection with Aceh Merdeka--were far lighter than in the past.

The most prominent political trial of 1993 was that of East Timor resistance leader Jose "Xanana" Gusmao, who was charged under felony statutes with attacking the Indonesian State, leading a rebellion, and illegal possession of firearms for his role in leading the armed East Timorese resistance. Authorities allowed access to his trial in Dili by a wide range of observers, including diplomatic missions, foreign and Indonesian journalists, and foreign human rights organizations such as the International Commission of Jurists and Asia Watch. Although Gusmao may not have freely chosen his defense attorney (see above), he was represented by an able group of lawyers who conducted a vigorous defense and had frequent access to their client. Nonetheless, the trial's conduct appeared to violate several provisions of the Criminal Procedures Code and to many observers did not meet international standards for a fair trial. For example, many of the witnesses who testified against him were themselves in custody, and their testimony was either hearsay or possibly coerced. Gusmao was prevented from reading aloud his own defense statement on the grounds it was irrelevant to the charges against him, even though the Criminal Procedures Code places no such limits on the contents of a defendant's final statement. Access to the trial by outside observers was briefly restricted toward its end when Gusmao became less cooperative. Gusmao was found guilty and sentenced to life in prison. He subsequently asked for and was granted Presidential clemency, which reduced

his sentence to 20 years. On August 12, he was transferred at his request from Dili, East Timor. At year's end he was in Cipinang prison in Jakarta.

The Government does not make available statistics on the number of people currently serving subversion sentences or sentences under the felony hate-sowing or sedition laws. Informed estimates of the number of people serving sentences for subversion in 1993, including members of the banned Communist Party of Indonesia (PKI), Muslim extremists, and those convicted of subversion in Irian Jaya, Aceh, and East Timor were about 00. Scores, and possibly hundreds, more were believed to be serving sentences under felony hate-sowing or sedition laws. At least some of these persons advocated or employed violence, but many are political prisoners who were convicted for attempting to exercise such universally recognized human rights as freedom of speech or association or who were convicted in manifestly unfair trials. Several persons convicted of subversion were granted early releases in August and September, including Islamic preacher A.M. Fatwa, who was convicted and sentenced to 18 years in 1985 for allegedly instigating the 1984 riot in Tanjung Priok.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence Judicial warrants for searches are required except for cases involving suspected subversion, economic crimes, and corruption. However, forced or surreptitious entry by security agencies occurs regularly. Security agelcies intimidate by conducting surveillance of persons and residences and selectively monitoring local and international telephone calls without legal restraint. Government security officials monitor the movements and activities of former members of the PKI and its front organizations, especially persons the Government believes were involved in the abortive 1965 Communist-backed coup. The Government stated in late 1990 that this latter group then totaled 1,410,333 people. These persons and their relatives sometimes are subject to surveillance, required check-ins, periodic indoctrination, and restrictions on travel outside their city of residence. Their legally required identification cards carry the initials "e.t." which stand for "ex-tapol," or former political prisoner, which readily identifies them to prospective employers or government officials. For the first time, various groups in1993 made public pleas to end these official and unofficial restrictions on former political prisoners.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

A significant increase in the amount and quality of public debate on sensitive issues occurred in 1993. Think tanks, newspapers, and academic institutions mounted seminars on a wide range of previously taboo topics such as human rights and democracy. The printed media in particular published factual stories and editorials reflecting a wide range of opinions, many of them critical of the Government. These improvements in the print media, including the nation's 273 daily newspapers which are largely privately owned, came despite continued government controls over publishing permits, the amount of advertising permitted, and the number of pages allowed in newspapers. While the practice of telephoning editors to caution against publishing certain stories continued--the so-called telephone culture--its incidence was sharply lower. Self-censorship, however, continued to be a publicly acknowledged brake on free expression. Military authorities continued in some cases to issue orders to local journalists on what they could print. Journalists in East Timor, for example, were instructed in March not to report details of an outburst in favor of East Timorese independence by a witness in the trial of resistance leader Jose "Xanana" Gusmao. Also in March, Medan newspapers were told they needed prior military approval

to report on developments in the Batak Protestant Church leadership struggle(see Section 2.c.).

While public dialog was generally more open, the Government still imposed excessive restrictions on free speech. For example, in contrast to a generally more permissive attitude toward public demonstrations, police reacted harshly in breaking up a peaceful demonstration on December 14 at the Parliament, arresting 21 people and injuring more than a dozen in the process. The 21 were charged with hate sowing and insulting the President and were still in custody at year's end. Two students arrested prior to the June 1992 parliamentary elections for criticizing the election process and advocating the casting of blank ballots or staying away from the polls were brought to trial in Semarang on charges of insulting and sowing hatred against the Government (see Section 1.e.). The distribution of a September edition of the Far Eastern Economic Review that carried a story about the trial was delayed nearly 2 weeks. The students were found guilty in November and sentenced to 4 months in prison.

Human rights monitor Adnan Buyung Nasution was blocked by university authorities from addressing a seminar in early December at the University of Indonesia, as was the outspoken poet W.S. Rendra. A prominent Muslim intellectual, Arief Budiman, was barred from appearing in June at a conference on the disabled in Surakarta, Central Java, and a well-known poet, Emha Ainun Najib, was banned by authorities from performing in the same city in May, ostensibly because they posed threats to security.

The electronic media remained far more cautious than the printed media. The Government operates the nationwide television network, which in Jakarta and Surabaya includes a second channel. Private and educational television companies broadcasting in Jakarta and Surabaya continued to expand to other areas. Some 586 private radio broadcasting companies exist in Indonesia in addition to the Government's national radio network. New regulations were promulgated in 1993 that will allow private radio stations greater latitude in producing their own news programs.

Foreign television and radio broadcasts are readily accessible to those who can afford the technology, and satellite dishes have sprouted all over the archipelago. No efforts are made to restrict access to this programming.

The Government closely regulates access to Indonesia, particularly to certain areas of the country, by visiting and resident foreign correspondents, and occasionally reminds the latter of its prerogative to deny requests for visa extensions. Foreign journalists, for example, were unable to get permission to visit East Timor prior to the February start of the trial of resistance leader Jose "Xanana" Gusmao, and several requests were denied after the trial ended in May. The importation of foreign publications and video tapes, which must be reviewed by government censors, requires a permit. Importers sometimes avoid foreign materials critical of the Government or dealing with topics considered sensitive, such as human rights. Foreign publications are normally available, although several issues were delayed or embargoed in 1993 when they carried sensitive stories, especially those dealing with the business activities of the President's family.

While academic freedom is provided for in law, constraints exist on the activities of scholars. They sometimes refrain from producing materials that they believe might provoke government displeasure. Publishers are sometimes unwilling to accept manuscripts dealing with controversial issues, although a number of books on controversial topics were published in 1993, such as human rights activist Adnan Buyung Nasution's revisionist look at Indonesia's early experiment with representative democracy.

The Attorney General banned at least seven books in 1993, most dealing with religious topics.

b. Freedom of Peaceful Assembly and Association

Freedom of assembly and association are recognized by the Constitution. Nonetheless, significant controls are placed on citizens who attempt to exercise this freedom. All organizations must have government permission to hold regional and national meetings. Local jurisdictions often require prior approval for smaller gatherings as well. While obtaining such approval isfairly automatic, the authorities occasionally withhold permission. The Government did not permit the Indonesian Workers Welfare Union (SBSI) to hold its July 29 annual congress (see Section 6.a.). On August 12, Surabaya police refused a permit for the Surabaya Arts Council to open an art exhibit and poetry reading celebrating the life and memory of a murdered labor activist (see Section 1.a.). Student gatherings have often been the target of disapprovals, and political activity at universities, while no longer formally banned, remained tightly controlled.

The 1985 Social Organizations Law (ORMAS) requires all organizations, including recognized religions and associations, to adhere to the Government's official ideology of Pancasila. This provision, which limits political activity, is widely understood as being designed to inhibit activities of groups which seek to make Indonesia an Islamic state. The law empowers the Government to disband any organization it believes to be acting against Pancasila and requires prior government approval for any organization's acceptance of funds from foreign donors, hindering the work of many local humanitarian organizations.

c. Freedom of Religion

The Constitution provides for religious freedom and belief in one supreme God. The Government recognizes Islam, Christianity, Buddhism, and Hinduism, and permits practice of the mystical, traditional beliefs of "Aliran Kepercayaan." Although the population is overwhelmingly Muslim, the practice and teachings of the other recognized faiths are generally respected. Various restrictions on certain types of religious activity exist.

According to official statistics, nearly 400 "misleading religious cults" are banned, including Jehovah's Witnesses and Baha'i. West Java authorities banned an Islamic sect in late July after a violent confrontation with police that left five dead (see Section 1.a.). Because the first tenet of Pancasila is belief in a supreme being, atheism is forbidden. The legal requirement to adhere to Pancasila extends to all religious and secular organizations. The Government strongly opposes Muslim groups which advocate establishing an Islamic state or acknowledging only Islamic law.

In December 1992, the Northern Sumatra regional military commander intervened in an internal leadership dispute within the Huria Kristen Batak Protestan (HKBP), Indonesia's largest Protestant church. Citing the failure of church members to agree on a new bishop at a church conference the month before and the possibility that the church dispute could affect public order, the military commander named an interim bishop to replace the incumbent, whose 5-year term was due to end in February 1993. Although the Government stated the military became involved only after a request from the church's Central Leadership Council, past criticism of the Government by the former bishop may have been a factor. The military intervention sparked demonstrations in several cities, and some 150 church members were detained in January. On several occasions security forces assisted supporters of the new leadership to take control of church buildings by force. Tensions reached a peak in May when some 70 people were detained in Tebing Tinggi,

North Sumatra, following outbreaks of violence between church members. Most were released, but trials were expected for the dozen or so still in custody.

There is no legal bar to conversion between faiths, and conversions occur. However, proselytizing by the recognized religions or in areas heavily dominated by one recognized religion or another is considered potentially disruptive and is discouraged. Foreign missionary activities are relatively unimpeded, although in East Timor and occasionally elsewhere missionaries have experienced difficulties in renewing residence permits on unspecified "security grounds." Laws and decrees from the 1970's limit the number of years foreign missionaries can spend in Indonesia, with some extensions granted in remote areas like Irian Jaya. Foreign missionary work is subject to the funding stipulations of the ORMAS Law (see Section 2.b.).

Indonesians practicing the recognized religions maintain active links with coreligionists inside and outside Indonesia and travel abroad for religious gatherings. The Government organizes the annual hajj pilgrimage, and more than 100,000 Indonesians made it in 1993.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Through the early part of 1993 the Government drastically reduced the number of people barred either from entering or departing Indonesia. From a publicly announced figure of 8,897 "blacklisted" people in January, the total fell to a few hundred by August. Several prominent human rights figures, including Haji J.C. Princen, Adnan Buyung Nasution, and General Abdul Haris Nasution were permitted to travel abroad, and military spokesmen said no one was banned any longer from foreign travel for political reasons. Seven East Timorese who had unsuccessfully sought asylum at two Western embassies in June were allowed to leave the country under ICRC auspices in late December. At the same time the authorities banned foreign travel by some 300 Indonesians who had defaulted on loans to state banks. A 1992 law designed to regularize travel restrictions appeared responsible for the overall reduction in the number of blacklisted persons, although not all its provisions were implemented, especially the requirement to notify banned travelers in writing and review existing cases every 6 months.

Restrictions exist on movement by Indonesian and foreign citizens to and within parts of Indonesia. Permits to seek work in a new location are required in certain areas, primarily to control further population movement to crowded cities. Special permits are required to visit certain parts of Irian Jaya. Security checks affecting transportation and travel to and within East Timor occurred sporadically in 1993, and curfews in connection with military operations were occasionally imposed. Former political detainees, including those associated with the abortive 1965 coup, must notify authorities of their movements and may not change their place of residence without official permission (see Section 1.f.).

Indonesia continued its generous attitude toward Indochinese asylum seekers in 1993 and continued to carry out its responsibilities under the Comprehensive Plan of Action. It has granted first asylum to over 145,000 Indochinese asylum seekers since 1975 and continued to operate a refugee facility on Galang Island. Screening of all asylum seekers was completed in September, and plans were being made to repatriate some 8,000 asylum seekers and resettle some 2,000 refugees. The Government stressed that these movements must be handled humanely and in cooperation with international organizations such as the U.N. High Commissioner for Refugees (UNHCR). Indonesia also continued its cooperation with the UNHCR and the ICRC regarding the return of residents of Irian Jaya who had fled to Papua New Guinea during separatist violence in the eastern portion of

the province. Acehnese who fled to Malaysia during the height of separatist violence in 1990-91 continued to return to Aceh. Others continued to seek asylum in Malaysia, including a group who entered the UNHCR compound in Kuala Lumpur in 1992 claiming their lives would be threatened if they returned to Indonesia.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have the ability to change their government through democratic means. Under the Constitution, the highest authority of the state is the 1,000-member People's Consultative Assembly (MPR). It meets quinquennially to elect the President and Vice President and set the broad outlines of state policy. Half of its members come from the national Parliament, 80 percent of whose members are elected. The other half are appointed, giving the Government control of the MPR and selection of the President. In March the MPR elected Soeharto to his sixth uncontested 5-year term as President. While in theory, the President is subordinate to the Assembly, in fact, he and a small group of active duty and retired military officers and civilian officials exercise governmental authority.

The military, under a "dual function" doctrine, is assigned a rol in both security and sociopolitical affairs. Members of the military are allotted 20 percent of the seats in national, provincial, and district parliaments, and occupy numerous key positions in the administration. The other 80 percent of national and local parliamentary seats are filled through elections held every 5 years. All adult citizens are eligible to vote, except active duty members of the armed forces, convicted criminals serving prison sentences, and some 36,000 former PKI members. Voters choose by secret ballot between the three government-approved political organizations, which field candidate lists in each electoral district. Those lists must be screened by the Agency for Coordination of Assistance for the Consolidation of National Security (BAKORSTANAS) (see Section 1.d.), which determines whether candidates were involved in the abortive 1965 Communist coup or pose other broadly defined security risks. Critics charge these screenings are unconstitutional, since there is no way to appeal the results, and note that they can be used to eliminate critics of the Government from Parliament.

Strict rules establish the length of the political campaign, access to electronic media, schedules for public appearances, and the political symbols that can be used. GOLKAR, a government-sponsored organization of diverse functional groups, won 68 percent of the seats in the 1992 elections. Two small political parties, the United Development Party and the Democratic Party of Indonesia (PDI), split the remaining vote. By law all three political organizations must embrace Pancasila, and none is considered an opposition party. The leaders of all these organizations are approved, if not chosen, by the Government, and their activities are closely scrutinized and often guided by government authorities. The Government disrupted the July national congress of the PDI in Medan and refused to ratify its reelection of Soerjadi as general chairman, helping instead to form an alternate "caretaker" council to elect a general chairman. In December the Government finally succumbed to popular pressure within the PDI and allowed Megawati Sukarnoputri, the daughter of Indonesia's first president, to become the PDI's top officer.

GOLKAR maintains close institutional links with the armed forces and KORPRI, the nonunion association to which all civil servants automatically belong. Civil servants may join any of the political parties with official permission, but most are members of GOLKAR. Former members of the PKI and some other banned parties may not run for office or be active politically. The 500 members of the national Parliament (DPR) consider bills presented to them by government departments and agencies but do not draft laws on

their own, although they have the constitutional right to do so. The DPR makes technical and occasionally substantive alterations to bills it reviews. It remains clearly subordinate to the executive branch.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government generally ignores calls by domestic human rights groups and activists for investigations of alleged human rights incidents, although the armed forces did conduct its own review of the September Madura incident which resulted in disciplinary action against four officers. While various domestic organizations and persons interested in human rights operate energetically, some human rights monitors face government harassment such as frequent visits by police or agents from military intelligence, interrogations at police stations, or cancellations of private meetings (see Section 2.b.). The Government considers outside investigations of alleged human rights violations to be interference in its internal affairs and emphasizes its belief that linking foreign assistance to human rights observance is unacceptable.

Nonetheless, the Government in 1993 showed itself far more receptive to international human rights groups and concerns. It hosted, along with the United Nations, an Asia-Pacific workshop on human rights in January, and allowed a representative of Amnesty International (AI) to attend, the first time in 15 years that AI was officially allowed to enter Indonesia. A representative of Asia Watch was allowed to visit Jakarta and East Timor during the trial of Jose "Xanana" Gusmao and was given wide access to government and nongovernmental organization (NGO) officials. Three different representatives of the International Commission of Jurists were also allowed to attend Gusmao's trial. The ICRC continued to operate in East Timor, Irian Jaya, and Aceh, and to visit prisoners convicted of participation in the abortive, Communist-backed coup in 1965 as well as convicted Muslim extremists. Although the ICRC experienced problems in conducting prison visits in May in Aceh and in May and June in East Timor, the problems were resolved for the time being.

A special envoy of the U.N. Secretary General, Amos Wako, was allowed to visit Jakarta and East Timor in April, and other U.N. officials attended sessions of Gusmao's trial. Indonesia was a vigorous participant in the June World Conference on Human Rights in Vienna and joined the consensus on the concept of the universality of human rights. Just prior to the conference, the Government announced the formation of a National Human Rights Commission headed by former Supreme Court Chief Justice Ali Said. The names of the other commission members were announced in December. Although skepticism existed about the commission's independence from the Government, and virtually all the private human rights monitors who had been asked to join refused, many of those appointed were viewed by human rights activists as credible spokesmen for human rights and democracy.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Women

Although President Soeharto and other officials periodically affirm that women are equal to and have the same rights, obligations, and opportunities as men under Indonesian law, this is only partly true. Women often find it more difficult to exercise their legal rights. For example, in divorce cases women often bear a heavier evidentiary burden than

men, especially in the Islamic-based family court system. Although some Indonesian women enjoy a high degree of economic and social freedom and occupy important midlevel positions in the civil service, educational institutions, labor organizations, the military, the professions, and private business, the overwhelming number of Indonesian women do not experience such social and economic freedoms.

Although women constitute one-quarter of the civil service, they occupy only a small fraction of the service's top posts. They make up about 40 percent of the overall work force, with the majority in the rural sector. Despite legal guarantees of equal treatment, women seldom receive equal pay for equal work and disproportionately experience illiteracy, poor health, and inadequate nutrition. There is a common belief that women will work for a lower wage, will do work a man would not do, and will not complain. Women are often not given the extra salary that is their due when they are the head of household. Women workers also have complained of being sexually victimized by foremen and factory owners. Although several voluntary, private groups work actively to advance women's legal, economic, social, and political rights and claim some success in gaining official cognizance of women's concerns, traditional attitudes which limit women's aspirations, activities, and status undercut state policy in some areas..

The Indonesian National Police reported 1,341 rape cases for 1991 and 1,356 cases for 1992. However, women's rights activists believe rape is grossly underreported in Indonesia, shame being one of the primary reasons. Some legal experts state that if a women does not go immediately to the hospital for a physical exam which produces semen or other physical evidence of rape, she will not be able to bring charges. Anecdotal evidence also suggests some women fail to report rape to police out of fear of being molested again by the police themselves.

A common belief, even among women of the upper classes, is that women who walk alone at night will be perceived as "fair game." Many women go to great lengths to avoid being in public alone in the evenings. The danger inherent in returning home alone in the evenings is acknowledged by government regulations requiring employers to provide transportation for women workers who are required, through either overtime work or shift work, to return home at night. However, this regulation is often honored only in the breach, as are provisions granting women maternity and menstrual leave.

The Government has acknowledged the problem of domestic violence in Indonesian society, which some say has been aggravated by recent social changes brought about by rapid urbanization. However, longstanding traditional beliefs that the husband may "teach" or "control" the wife through several means, including violence, also contribute to the problem. The Government provides some counseling, and several private organizations exist to assist women. Many of these organizations focus mainly on reuniting the family rather than on providing protection to the women involved. There are no battered women's shelters in Indonesia. Many women rely on extended family systems for shelter during cooling-off periods. In general, the problem of violence against women remains poorly documented.

Female genital mutilation, which is widely condemned by health experts as both physically and psychologically dangerous to women's health, is widely practiced in Indonesia. In Java it usually occurs within the first year after birth and is performed either at a hospital or by a local shaman or dukun, especially in rural areas. Usually a small section of the tip of the clitoris is cut. Total removal of the clitoris is not the objective of the practice, although it does occur if ineptly performed.

Children

Indonesia is a signatory of the Convention on the Rights of the Child and was on the organizing committee of the World Summit for Children. The United Nations Children's Fund (UNICEF) and NGO's active in child welfare are also active in Indonesia, and UNICEF in particular has praised government efforts to improve the lives of children through poverty alleviation and improvements in primary education, maternity services, and family planning. Law No. 4 of 1979 on children's welfare guarantees certain rights to children and defines the responsibility of the State and parents to nurture and protect them. Implementing regulations have never been developed, however, and the law's provisions have yet to go into effect.

Although child sexual and other physical abuse is known to occur in Indonesia, especially cases of incest between stepfathers and stepdaughters, some experts in child care believe its incidence in Indonesia is relatively low. Laws exist which protect children from indecent activities, prostitution, and incest, although the Government has made no special enforcement efforts in these areas.

Indigenous People

The Government recognizes several indigenous population groups in Indonesia, based largely on criteria relating to isolation. The Government recognizes these groups' rights to participate fully in Indonesian political and social life; considerable efforts, for example, were made to insure that isolated groups participated in the 1992 elections. It is widely believed, however, that the Government's approach is basically paternalistic and designed more to bring these groups into the Indonesian family than to protect traditional ways of life. Where indigenous groups clash with development schemes, the developers almost always win. Concerns have also been raised about the Government's transmigration programs, which frequently disrupt the social and economic life in the recipient communities when transmigrants are relocated from populous Java to less populated outer islands.

National/Racial/Ethnic Minorities

Indonesians exhibit considerable racial and ethnic tolerance, with the important exception of official and informal discrimination against ethnic Chinese, who comprise about 3 percent of the population. Since 1959 noncitizen ethnic Chinese have been denied the right to run businesses in rural Indonesia. Regulations prohibit the operation of all Chinese schools for ethnic Chinese, formation of exclusively Chinese cultural groups or trade associations, and public display of Chinese characters. Chinese-language publications, with the exception of one officially sanctioned daily newspaper, may neither be imported nor produced domestically. Private instruction in Chinese is discouraged but takes place to a limited extent. State universities have no formal quotas that limit the number of ethnic Chinese. No laws prohibit speaking Chinese, but the Government lays heavy stress on the learning and use of the national language, Bahasa Indonesia. Ethnic Chinese were forbidden in 1993 to celebrate the Chinese new year in temples or public places. Despite these limitations, many people of Chinese ancestry have been successful in business and the professions, and the enforcement of restrictions is often haphazard. Some ethnic Chinese have enjoyed particular government favor. Social and religious groups exist which are, in effect, all Chinese and not proscribed. Chinese is spoken in businesses and by the public at entertainment events.

People with Disabilities

The disabled in Indonesia do not receive special programs or attention, and no national law specifically addresses their status. Virtually no public buildings or public means of transport are designed specifically for access by the handicapped, and the handicapped face considerable discrimination in employment and education. The press, for example, reported in 1993 the case of a university student confined to a wheelchair who was told in the fourth year of a 5-year biology degree that she would not be permitted to complete her course of study because university rules forbade the admission of handicapped students in her department. Public outcry and debate of the issue was significant; she was permitted to obtain her degree, and issues of the handicapped received considerable public discussion. A 1992 traffic law implemented in 1993 notes specifically the right of the handicapped to special transportation services such as specifically designed tools and facilities, special regulations for obtaining drivers' licenses, and appropriate vehicles.

Section 6 Worker Rights

a. The Right of Association

Private sector workers, including those in export processing zones, are free to form worker organizations without prior authorization. However, only a union can bargain on behalf of employees or represent workers in the Department of Manpower's labor courts. Private sector firms without unions are required to issue company regulations covering terms of employment. Workers are supposed to be consulted prior to the issuance of these regulations. Department of Manpower approval is also required for company regulations (see Section 6.b.).

In order to be recognized as a union, a workers' organization must register as a social organization with the Department of Home Affairs under the ORMAS Law (see Section 2.b.) and meet the requirements for recognition by the Department of Manpower, namely: union offices in at least 5 of the country's 27 provinces, branch offices in at least 25 districts, and 100 plant-level units. If, because the industry or type of work is localized, with the result that a union is confined to only a few locations, e.g. mining, the union needs 10,000 members for registration purposes. These requirements were introduced by Ministerial Regulation per-03/men/1993, signed by the Minister of Manpower in February 1993.

While the current recognition requirements are lower than those specified previously, they still constitute a significant barrier to recognition and the right to engage in collective bargaining. Inaddition, Ministerial Regulation per-03/men/1993 requires that a union be set up "by and for workers" (Article 1.a.). The Ministry of Manpower interprets this clause to deny recognition to groups in which what it considers nonworkers, such as lawyers or human rights activists, are involved as organizers.

In September 1993, the Serikat Pekerja Seluruh Indonesia (SPSI, All Indonesian Workers Union), the only recognized union, began a transformation from a unitary (centralized) to a federative (decentralized) structure. As of October 1993, 12 of its 13 industrial sectors were registered as independent unions. This change was made possible by regulations, kep-438/men/1992, signed by the Minister of Manpower in October 1992, and per-03/men/1993 of February 1993. The former removed the requirement that a (plant-level) union be a component of the SPSI while the latter lowered the requirements for (nationwide) union recognition. However, to become final, the SPSI's constitution must

be altered. This can only be done at a SPSI congress; the next one is scheduled for 1995, or a special congress could be convened before then.

As of September, the SPSI had 11,184 units out of roughly 26,000 organizable work sites. It claims a membership of about 1.9 million dues-paying members, about 2.5 percent of the total work force. However, if agricultural workers and others in categories such as self-employed and family workers who are not normally union members are excluded, the percentage of union members rises to approximately 6 percent.

There is, de facto, a single union system, and it is the Government's stated policy to seek to improve effectiveness of the recognized SPSI unions rather than ease the process for the formation of alternative organizations. The only unions recognized by the Department of Manpower are those which previously constituted the SPSI's industrial sectors. The Minister of Manpower has stated that any unions which form in the future should affiliate with the SPSI federation and that the Government will not recognize any unions outside the federation.

The Government has indicated that it is looking at the possibility of permitting nonunion plant-level worker associations to conclude legally binding labor agreements with employers.

Two other labor groups, Setia Kawan (Solidarity), also known as Serikat Buruh Merdeka (SMB, Free Trade Union), and Serikat Buruh Sejahtera Indonesia (SBSI, Indonesian Workers Welfare Union), have been organized but are not registered. In existence for 2 years, Setia Kawan is essentially moribund while the SBSI, created in 1992, continues to attempt to form the necessary number of factory-level units to meet the requirements of the new registration regulation. The SBSI has twice attempted to register with the Department of Home Affairs as a social organization, on October 28, 1992, and August 10, 1993. In the first instance no action was taken on its application, and in the second an official of the Department of Home Affairs refused to accept the SBSI's documentation. Registration under the ORMAS Law is required for all organizations in order to function legally (see Section 2.b.). Although the ORMAS Law does not specify any requirement for approval from other government bodies, a spokesman for the Department of Home Affairs stated his department could not accept the SBSI's registration without a positive recommendation from the Department of Manpower. In line with its policy that only unions organized "by and for workers" can be recognized, the Department of Manpower has refused to recommend the registration of the SBSI as a social organization under the ORMAS Law on the grounds that its founders were not workers but human rights activists and lawyers. According to the SBSI, only two members of its executive board are lawyers, and the rest are workers. Government officials have said that if the SBSI reconstitutes itself as an NGO, it would be registered under the ORMAS Law. The SBSI, however, has refused to accept this offer.

Until October 1992, when it was replaced by Ministerial Regulation kep-438/men/1992, Minister of Manpower Decision 109/men/1986 defined the procedures for establishing an SPSI factory unit. This regulation enjoined workers to consult with the employer during the process of setting up an SPSI branch. In practice this often meant obtaining the employer's consent for theestablishment of a unit. While this regulation was in effect, there were numerous reports that employers would agree to the organization of SPSI units only if they were allowed to select the units' officials. Employers justified this action under the terms of Ministerial Decision 1109 which also specified the requirements for union officials including "high educational background" and possession of "certain qualities: reliable, highly disciplined...." Employers argued that they were in the best position to know which employees possessed those characteristics. Because of this, many

current SPSI factory units are led by individuals selected by employers and who have little credibility with their units' members. The new regulation states that employees must only notify their employer that they wish to form a union and that they may proceed if they do not receive a response from their employer within 2 weeks. Despite this new provision, strikes continue to occur because employers attempt to prevent the formation of union branches. These strikes are invariably successful and the formation of an SPSI unit follows shortly thereafter.

Civil servants are not permitted to join unions and must belong to KORPRI, a nonunion association whose central development council is chaired by the Minister of Home Affairs. Teachers must belong to the Teachers' Association (PGRI). While technically classed as a union (its status was changed from association similar to KORPRI in April 1990), PGRI has continued to function more as a welfare organization and does not appear to have engaged in trade union activities. State enterprise employees, defined to include those working in enterprises in which the state has a 5-percent holding or greater, usually are required to join KORPRI, but a small number of state enterprises have SPSI units.

Unions may draw up their own constitutions and rules and elect their representatives. However, the Government has a great deal of influence over the SPSI and its federated unions. The head of the SPSI is a senior member of GOLKAR, and he and two other senior SPSI officials are members of Parliament representing GOLKAR. With one exception, all members of the executive council are members of GOLKAR. These persons have been given positions in the new federated industrial sector unions. The Minister of Manpower is a member of the SPSI's Consultative Council. Numerous regional officials also are GOLKAR members, sometimes serving in regional legislatures. According to credible reports, the Government interferes in the selection of SPSI officers, especially by placing retired military officers in mid-level SPSI positions. The Government has stated that it intends to cease the practice of placing military officers in union positions and eventually to remove the officials with significant GOLKAR connections.

Under the Criminal Code, police approval is needed for all meetings of five people or more of all organizations outside offices or normal work sites. This provision also applies to union meetings. Permission is routinely given to the SPSI. In October 1992, police and the military halted an SBSI meeting, for which a permit had not been requested, and briefly detained its organizers for questioning. On June 19, police halted a seminar on freedom of association being held in the SBSI's offices while an International Labor Organization (ILO) official was present. In July the police and military prevented the SBSI from holding its first congress because the Government had not granted the union's request for a permit for the meeting. A union may be dissolved if the Government believes it is acting against Pancasila, but there are no laws or regulations specifying procedures for union dissolution. There have been no actual cases of dissolution.

The SPSI maintains international contacts but is not affiliated with any international trade union organizations except the Association of Southeast Asian Nations (ASEAN) Trade Union Council. Some elements of the SPSI, now registered as industrial sector unions, maintain links with international trade union secretariats. The SPSI still has its application pending for membership with the International Confederation of Free Trade Unions.

While Pancasila principles call for labor-management differences to be settled by consensus, all organized workers, with the exception of civil servants, have the right to strike. However, state enterprise employees and teacher rarely exercise this right. Before a strike can occur in the private sector, the law requires intensive mediation by the

Department of Manpower and prior notice of the intent to strike. However, no approval is required.

In practice, dispute settlement procedures are not followed fully, and formal notice of the intent to strike is rarely given. The Department of Manpower procedures are time consuming, and decisions are handed down usually only after a prolonged period has elapsed. These processes have little credibility with workers and are mostly ignored. Strikes, therefore, tend to be sudden, the result of longstanding grievances or recognition that legally mandated benefits or rights are not being received. While strike leaders are not arrested for illegal strikes, they often lose their jobs. The number of strikes has continued to increase over the last few years, most of them over failure of companies to pay legally mandated minimum wages or because companies are resisting the formation of a factory-level union. In 1992 there were 112 "illegal" strikes officially recorded by the Department of Manpower, but the actual number most likely was larger.

b. The Right to Organize and Bargain Collectively

Collective bargaining is provided for by law, but only recognized trade unions may engage in it. As noted in Section 6.a. above, the Government is considering permitting plant-level workers associations (non-SPSI groups) to conclude legally binding agreements with employers. The Department of Manpower promotes collective bargaining as an instrument of industrial relations in the context of the national ideology, Pancasila. The majority of the collective bargaining agreements between the SPSI and employers are negotiated bilaterally.

Once notified that 25 employees have joined a registered union, an employer is obligated to bargain with it. As a transitional stage to encourage collective bargaining, regulations require that every company with 25 or more employees issue company regulations defining the terms and conditions of employment. Before a company can register or renew its company regulations it must demonstrate that it consulted with the union or, in its absence, a committee consisting of employer and employee representatives. In companies without unions, the Government discourages workers from utilizing outside assistance, such as from NGO's, during consultations with employers over company regulations. The Department of Manpower prefers that workers seek its assistance and believes that the Department's role is to protect workers. There are credible reports that for some companies consultations are perfunctory at best and usually with management-selected workers. There are also credible reports to the contrary from U.S. companies.

Only about half of the factory-level SPSI units have collective bargaining agreements. The degree to which these agreements are freely negotiated between unions and management without government interference varies. By regulation, negotiations are to be concluded within 30 days. If not, the matter is submitted to the Department of Manpower for mediation and conciliation or arbitration. Most negotiations are concluded within the 30-day period. Agreements are for 2 years and can be extended for 1 more year. According to Indonesian and non-Indonesian NGO's rarely go beyond the legal minimum standards established by the Government, and the agreements are often merely presented to worker representatives for signing rather than being negotiated.

Regulations expressly forbid employers from discriminating or harassing employees because of union membership. There are credible reports from union officials, however, of employer retribution against union organizers, and the SPSI claims that some employers discriminate against its members and workers who wish to form SPSI units. A significant number of strikes during the last year were the result of employers' refusals to permit the establishment of SPSI units. In nearly all of these cases, employers consented

to the establishment of an SPSI branch following the strike. Some employers reportedly have
warned their employees against contact with union organizers from the unrecognized SBSI organization.

Charges of antiunion discrimination are adjudicated by administrative tribunals. However, many union members believe the tribunals generally side with employers. Because of this perceived partiality, many workers reject or avoid the procedure and present their grievances directly to Parliament and other agencies. Administrative decisions in favor of fired workers tend to be monetary awards; workers are rarely reinstated. The provisions of the law make it difficult to fire workers, but the law is often ignore in practice. The ILO Conference report 1993 regretted that Indonesian legislation was contrary to the requirements of ILO Convention 98 with regard to protection against acts of antiunion discrimination. Workers may organize without restriction in a private enterprise, even if it is designated vital by the Government. If the state has a partial interest, the enterprise is considered to be in the public service domain, but this does not always legally limit organizing. There are a number of joint ventures between government and private enterprise which have SPSI units and which bargain
collectively.

The military, which includes the police, has been involved in a number of labor disputes. Workers have charged that members of the security forces have attempted to intimidate union organizers and have beaten strike leaders. In June, two officials from the SBSI in Medan were detained by police and physicallyabused as a result of their attempt to organize a union in a factory. In May a woman union activist in Surabaya was murdered. In addition to several officials and employees of the factory at which she worked, the commander of a local military unit was arrested in connection with the murder, and a second officer was relieved of his post (see Section 1.a.). Members of military intelligence also attended and monitored trade union education seminars run by the Asian-American Free Labor Institute (AAFLI), even though these programs were approved by the Department of Manpower. The military command in Surabaya also halted an AAFLI-SPSI-Department of Manpower-approved program designed to organize new SPSI units. Police and military in a number of instances have been present in significant numbers during strikes, even when there has been no destruction of property or other violence. Military officials occasionally have been reported present during negotiations between workers and management. Their presence has been described as intimidating by plant-level union officials.

Labor law applies equally in export processing zones.

c. Prohibition of Forced or Compulsory Labor

Forced labor is strictly forbidden and enforcement is generally adequate. The Government, however, is often slow to investigate allegations of forced labor. Press reports and NGO's have alleged that there have been cases of fraudulent recruitment of Timorese workers for employment in Java and forced labor by logging companies in Irian Jaya.

d. Minimum Age for Employment of Children

Child labor continues to be a serious problem in industrial areas. The Government acknowledges that there is a class of children who must work for socioeconomic reasons, and in 1987 the Minister of Manpower issued regulation per-ol/men/1987, "Protection of Children Forced to Work," to regulate this situation. This regulation legalizes the

employment of children under the age of 14 who must work to contribute to the income of their families. It requires parental consent, prohibits dangerous or difficult work, limits work to 4 hours daily, and requires employers to report the number of children working under its provisions. It does not set a minimum age for children in this category, effectively superseding the colonial-era government ordinance of December 17, 1925, on "Measures Limiting Child Labour and Nightwork of Women," which is still the current law governing child labor and sets a minimum age of 12 for employment. The 1987 regulation is not enforced. No employers have been taken to court for violating its restrictions on the nature of employment for children, and no reports are collected from establishments employing children. There are no statistics available to determine whether child labor is a significant factor in export or any other industries.

The Government sometimes refers to Act No. 1 of 1951, which was intended to bring into force certain labor measures, including provisions on child labor which would replace those of the 1925 legislation. However, implementing regulations for the child labor provisions have never been issued. Thus the child labor provisions in the 1951 Act have no validity.

In September the Government announced it would review its child labor regulations with the intention of tightening enforcement of restrictions on child labor. At year's end, the review was not completed, nor had any change in practices been implemented.

e. Acceptable Conditions of Work

In the absence of a national minimum wage, area wage councils working under the supervision of the National Wage Council establish minimum wages for regions. These councils are quadripartite bodies consisting of representatives from labor, management, government, and universities. They also establish abasic-needs figure for each province--a monetary amount considered sufficient to enable a single worker or family to meet the basic-needs of nutrition, clothing, and shelter. While Indonesia has succeeded in dramatically lowering the level of poverty throughout the country, the minimum wage rates have lagged behind the basic needs figures. However, effective January 1, 1994, the minimum wage for most provinces will be raised to the basic-needs figure, with the minimum wage in the remaining areas being adjusted as of April 1, 1994. Labor law and ministerial regulations provide workers with a variety of other benefits, such as social security, and workers in more modern facilities often receive health benefits and free meals.

The law establishes 7-hour workdays and 40-hour workweeks, with one 30-minute rest period for each 4 hours of work. The daily overtime rate is 1 1/2 times the normal hourly rate for the first hour, and twice the hourly rate for additional overtime. Regulations allow employers to deviate from the normal work hours upon request to the Minister of Manpower and with the agreement of the employee. Observance of minimum wage and other laws regulating benefits and labor standards varies from sector to sector and by region. Employer violations of legal requirements are fairly common and often result in strikes and employee protests. The Minister of Manpower continues publicly to urge employers to comply with the law. However, in general, government enforcement and supervision of labor standards are weak.

Both law and regulations provide for minimum standards of industrial health and safety. In the largely Western-operated oil sector, safety and health programs function reasonably well. However, in the country's 100,000 larger registered companies in the nonoil sector, the quality of occupational health and safety programs varies greatly. The enforcement of health and safety standards is severely hampered by the limited number of qualified Department of Manpower inspectors as well as by the low level of employee

appreciation for sound health and safety practices. Allegations of corruption on the part of inspectors are not uncommon. Workers are obligated to report hazardous working conditions; and while employers are prevented by law from retaliating against those who do, such retaliation does occur since the law is not effectively enforced.

It is also important to note that government policy has had the direct and intended effect of markedly improving the material condition of the Indonesian labor force both in terms of per capita income and income distribution